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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,081	09/30/2003	Jeyhan Karaoguz	14306US02	5083
23446 7590 03/24/2009 MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661				
EXAMINER				
RYAN, PATRICK A				
ART UNIT		PAPER NUMBER		
2427				
MAIL DATE		DELIVERY MODE		
03/24/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/675,081

**Applicant(s)**

KARAOGUZ ET AL.

**Examiner**

PATRICK A. RYAN

**Art Unit**

2427

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

THE REPLY FILED 16 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-37.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

/Scott Beliveau/  
Supervisory Patent Examiner, Art Unit 2427

/P. A. R./  
Examiner, Art Unit 2427

Continuation of 11. does NOT place the application in condition for allowance because: Continuation of 3. NOTE: Applicant presents that Shoff does not teach the limitation "the broadcast television program and said at least one synchronized functionality being of the same format and for display on a television screen within a home" because "Shoff's supplemental information is constructed as a hypertext file, which is generated by a browser at the viewer location and is of different format when compared with the received television signal" (After Final Amendment of 03/16/09 Pages 14-15; with additional reference to Amendment of 11/06/08 Page 17). The Examiner respectfully disagrees.

The Examiner has equated Shoff's "digital data [that] supports interactive functionality" with Applicant's "synchronized functionality" (Final Office Action of 01/14/2009 Page 4). Shoff discloses that this digital data supports interactive functionality by defining aspects such as the display layout and how the supplemental content and the video program are to appear by defining aspects such as timing information (Col. 9 Line 66-Col. 10 Line 17). In addition, Shoff discloses that "digital data is packaged with the video stream and transmitted as one signal from the headend" (Col. 10 Lines 18-23), such as by using the vertical blank interval (VBI) between successive frames of the video (Col. 2 Lines 32-52), and the digital data can then be used to present supplemental information to the user (i.e. display screens of Figs. 8a-8c showing information such as a trivia game, as described in Col. 10 Lines 53-58). Therefore, it is the Examiner's position that the synchronized functionality of Shoff is not limited to hypertext data such as Web pages.

Additionally, Applicant presents that Shoff does not teach "wherein said at least one synchronized functionality originates from the same broadcast provider location as the broadcast television program" because "the broadcast video signals [of Shoff] are retransmitted since they originate from a satellite feed or cable system feed, i.e. remotely from the headend 22" (After Final of 03/16/09 Pages 16-17). The Examiner respectfully disagrees.

The Examiner upholds the arguments of Final Office Action of 01/14/2009 and emphasizes that the Applicant has provided no support within the Shoff reference to support headend 22 retransmitting broadcast video signals. It is the Examiner's position that headend 22 is the point of origin for both the broadcast video signals (element 40) and the synchronized functionality (element 54) (as shown in Fig. 2).

/PAR/